

### **REMARKS**

By this amendment, claims 1, 3, and 39 have been amended. Claims 1-14 and 39-46 are pending in the application. Applicants reserve the right to pursue the original claims and other claims in this and other applications.

Applicants note that the Office Action does not specifically indicate whether the objection to the drawings and the rejection of claims 1, 3-14, and 39-46 under 35 U.S.C. § 112, second paragraph, have been withdrawn. Applicants presume that the rejections have been withdrawn in response to the Amendment filed June 7, 2010.

Claims 1, 3-10, 13, 39, and 43 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Brockway et al. (US 2002/0138009) in view of Spaude et al. (US 5,811,897). This rejection is respectfully traversed. The rejection does not specifically list claims 44-46, but they are mentioned in ¶ 7 on page 3 of the Office Action and will be argued below. Neither Brockway et al. nor Spaude et al., even when considered in combination, teaches or suggests all of the features of independent claims 1, 3, or 39.

Claim 1 recites a method for data communication in the human body comprising, *inter alia*, “a sensor, the sensor capable of being ingested and capable of travelling autonomously within the human body” (emphasis added). Claims 3 and 39 recite similar features. Applicants respectfully submit that Brockway et al. and Spaude et al., even when combined, fail to teach or suggest at least these features.

To the contrary, Brockway et al. teaches “an implantable sensor.” Paragraph [0001]. Brockway et al. further discloses “a stabilizer 312A ... to stabilize or secure device 105 at a particular location in the heart chamber or other organ in which device 105 is implanted. ... [T]he surface of corkscrew stabilizer 312A is coated or otherwise prepared to promote the growth of fibrotic tissue to reliably secure device 105 to the heart wall or other desired location.” Paragraph [0045]. The device of Brockway et al. is fixed in its location, and would cease to function for its intended purpose if it were allowed to move. Applicants respectfully submit that Brockway et al. does not disclose, teach, or suggest at least a sensor or endoscope capable of being ingested and capable of travelling autonomously within the human body, as recited in claims 1, 3, and 39.

Nor is Spaude et al. cited for these features. Thus, Spaude et al. does not remedy the deficiencies of Brockway et al. In addition, Brockway et al. is not combinable with any reference having an autonomous sensor, so the references are not properly combinable. As discussed above, the device of Brockway et al. is fixed in its location, and would cease to function for its intended purpose if it were allowed to move. “If [a] proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.” *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984); M.P.E.P. § 2143.01(V).

Since Brockway et al. and Spaude et al. are not combinable and do not teach or suggest all of the features of claims 1, 3, and 39, claims 1, 3, and 39 are not obvious over the cited combination. Claims 4-10, 13, and 43-46 depend, respectively, from independent claims 1 and 3, and are patentable at least for the reasons mentioned above, and on their own merits. Applicants

respectfully request that the 35 U.S.C. § 103(a) rejection of claims 1, 3-10, 13, 39, and 43 be withdrawn and the claims allowed.

Claims 11-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Brockway et al. and Spaude et al. in view of Bashiri et al. (US 6,165,178). This rejection is respectfully traversed. Claims 11-12 depend from independent claim 3 and are patentable at least for the reasons mentioned above, and on their own merits. Applicants respectfully request that the 35 U.S.C. § 103(a) rejection of claims 11-12 be withdrawn and the claims allowed.

Claim 14 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Brockway et al. and Spaude et al. in view of Yoshioka et al. (US 5,651,869). This rejection is respectfully traversed. Claim 14 depends from independent claim 3 and is patentable at least for the reasons mentioned above, and on its own merits. Applicants respectfully request that the 35 U.S.C. § 103(a) rejection of claim 14 be withdrawn and the claim allowed.

Claims 41-42 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Brockway et al. and Spaude et al. in view of Holmes et al. (US 4,267,415). This rejection is respectfully traversed. Claims 41-42 depend from independent claim 39 and are patentable at least for the reasons mentioned above, and on their own merits. Applicants respectfully request that the 35 U.S.C. § 103(a) rejection of claims 41-42 be withdrawn and the claims allowed.

It is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, there being no other objections or rejections, this application is in condition for allowance, and a notice to this effect is earnestly solicited. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided below.

Respectfully submitted,

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